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EXAMINER SQUIRES, ELIZA A				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

### Office Action Summary

**Application No.**

10/748,714

**Applicant(s)**

NICHOLS ET AL.

**Examiner**

Eliza Squires

**Art Unit**

3626

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 21-34 and 37-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 21-34, and 37-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The amendment dated 3/24/2009 has been entered. Claims 19-20 and 35-36 have been canceled and claims 16 and 33 have been amended. Claims 1-18, 21-34, and 37-40 are currently pending in the application.

#### ***Response to Arguments***

1. Applicant's arguments filed 3/24/2009 have been fully considered but they are not persuasive.
2. As to the Rejection under 35 USC 112 second paragraph, Examiner rejected claim 38 for being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as there invention. Applicant contends on page 12 that the rejection failed to specify which of the two requirements of the 35 USC 112 second paragraph that the claim was rejected under. It is, however, clear in the statement of rejection that the Examiner holds the position that the claim is "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as there invention" this is a rejection under the second requirement "the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant." Applicant's argument in regards to whether or not the claim meets the first requirement, i.e. if the claims set forth the subject matter that applicants regard as their invention, was not a rejection presented in the original office action, and fails to overcome the rejection in regards to the second requirement.
3. Applicant argues on page 13 and 14 of the remarks that the rejection under 35 USC 112 second paragraph was improper since claim 37 from which the rejected claim depends, recites (1) "selecting a surgical procedure, guideline or customized item;" (2) "selecting another of a

surgical procedure, guideline or customized item that was not previously selected;" and (3) "selecting a remaining surgical procedure, guideline or customized item that was not previously selected." Which Applicant contends requires that a surgical procedure, a guideline and a customized item will all be selected at some point.

4. It is noted that the features upon which applicant relies that all of a surgical procedure guideline and customized item are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Utilizing the broadest reasonable interpretation of the claim, one of ordinary skill in the art could interpret the claim to read on, for example, three different surgical procedures at one time or another being selected, not necessarily that each of the categories are selected.

5. It is therefore not clear how if, for example, three surgical procedures were selected in claim 37, a guideline and a customized item could be selected in any order since they were not selected in claim 37. This fails the second requirement of 112 second as described in Applicant's arguments.

The rejection is therefore maintained.

6. As to claims 1-5, 21-24, 33-34, 37-38, and 39-40 Applicant asserts that support for "executing program code in a data processing system in order to determine surgical procedures that are associated with a type of apparel" could not be found in the citation provided by examiner. *DeBusk* teaches a database (a database as used by *DeBusk* is software, or "program code", within a computer system. See *DeBusk* column 8 lines 48-67) which contains lists of materials associated with a surgical procedure (*DeBusk* see figure 2, column 9 lines 52-65, and

column 4 lines 45-65). Column 2 lines 62-67 and column 1 lines 56-67 of *DeBusk* teach that drapes or a series of drapes would be included in this list of materials. Since Applicant has not provided a special definition of the term "apparel" examiner defines the term as "a bodily covering" therefore apparel could include a surgical drape which is used to cover a body during a procedure. Examiner further notes that the term "associated" is also not defined by the Applicant. Examiner defines the term "associate" as meaning "to connect or join together ", therefore as the surgical procedure is connected [associated] to the materials in the database, as the materials are also connected [associated] to the surgical procedure in the database.

7. *DeBusk* therefore teaches the limitation.

8. As to claims 6-10, 16-18, and 25-28 Applicant asserts that support for "executing program code in a data processing system in order to determine guidelines that are associated with a type of apparel" could not be found in the *MSEC* reference specifically Applicant argues that it does not disclose guidelines. Applicant fails to provide a special definition for the term "guideline". Examiner defines "guideline" as "a non-specific rule or principle that provides direction to action or behavior" ([www.allwords.com](http://www.allwords.com)). When one would navigate the website of MSEC one could select the guideline of "Disposable & Patient Gowns" (the link provides direction to the navigation of the database of MSEC) to arrive at apparel associated with the guideline "Disposable & Patient Gowns".

9. *MSEC* therefore teaches this limitation.

10. As to claims 11-18 and 29-32 Applicant asserts that "executing program code in the data processing system in order to determine customized items that are associated with a type of apparel" cannot be found in the *MSEC* reference. Specifically Applicant argues that it does not

disclose "customized items". Applicant does not give a special definition for the term "customized". Examiner defines "customized" as "to alter to suit individual requirements or specifications" ([www.allwords.com](http://www.allwords.com)). *MSEC* on pages 2 and 3 the user is given options to select colors and sizes (customizations) associated with the apparel product. Inasmuch as the customized size and color is associated with an apparel product, the apparel product is associated with the customizations available in size and color.

11. *MSEC* therefore teaches this limitation.
12. The rejections are maintained.

***Claim Rejections - 35 USC § 112***

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

14. **Claim 38** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The claim recites “wherein the surgical procedure, the guideline and the customized item may be selected...” the claim from which the instant claim depends, claim 37, recites “selecting a surgical procedure, guideline, or customized item” it is therefore unnecessary in claim 37 to show the selection of each of a surgical procedure, guideline, and customized item. Claim 37, therefore, only requires that one of the listed characteristics be met to meet the limitations of the claim. It is unclear how in claim 38 each of the items are able to be selected in the system. For the purposes of examination the claim shall read as read in the independent claim, “...wherein the surgical procedure, the guideline, or the customized item may be selected...”

***Claim Rejections - 35 USC § 102***

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. **Claims 1-2** are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,991,728 to *DeBusk et al.*

17. **As to claim 1**, *DeBusk* discloses a method of selecting apparel products for surgical procedures, the method comprising:

executing program code in a data processing system in order to determine surgical procedures that are associated with a type of apparel (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

selecting one of the surgical procedures (*DeBusk* figures 8 and 9; column 15 lines 17-31);  
and

executing program code in the data processing system in order to determine apparel products that are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

18. **As to claim 2**, see the discussion of claim 1, additionally, *DeBusk* discloses the method further comprising selecting one of the apparel products for purchase (*DeBusk* figures 16, 8, and 9; column 15 lines 17-31).



The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

19. **Claims 6-8, 10-13** are rejected under 35 U.S.C. 102(a) as being anticipated by Medical Supplies & Equipment Company website obtained via <http://web.archive.org/> for the date 9/26/2003 hereinafter referred to as *MSEC*.

20. **As to claim 6**, *MSEC* discloses a method of selecting apparel products for surgical procedures, the method comprising:

executing program code in a data processing system in order to determine guidelines that are associated with a type of apparel; selecting one of the guidelines (*MSEC* page 1 wherein "Disposable and Patient Gowns" is a guideline); and

executing program code in the data processing system in order to determine apparel products that are associated with the selected guideline (*MSEC* page 3).

21. **As to claim 7**, see the discussion of claim 6, *MSEC* discloses the method further comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

22. **As to claim 8**, see the discussion of claim 6, additionally, *MSEC* discloses the method further comprising selecting one of the apparel products to obtain information on the selected apparel product (*MSEC* page 2).

23. **As to claim 10**, see the discussion of claim 6, additionally, *MSEC* discloses the method further comprising:

executing program code in the data processing system in order to determine customized items that are associated with the apparel products (*MSEC* pages 1-3);

selecting one of the customized items (*MSEC* page 3); and

executing program code in the data processing system in order to determine which of the apparel products are associated with the selected customized item (*MSEC* page 2).

24. **As to claim 11**, *MSEC* discloses a method of selecting apparel products for surgical procedures, the method comprising:

executing program code in the data processing system in order to determine customized items that are associated with a type of apparel (*MSEC* pages 1-3);

selecting one of the customized items (*MSEC* page 3); and

executing program code in the data processing system in order to determine apparel products that are associated with the selected customized item (*MSEC* page 2).

25. **As to claim 12**, see the discussion of claim 11, additionally, *MSEC* discloses the method further comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

26. **As to claim 13**, see the discussion of claim 11, additionally, *MSEC* discloses the method further comprising selecting one of the apparel products to obtain information on the selected apparel product (*MSEC* page 2).

***Claim Rejections - 35 USC § 103***

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. **Claims 3-5, 9, 14, 16-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over *DeBusk* in view of *MSEC*.

29. **As to claim 3**, *DeBusk* discloses the system substantially as claimed in claim 1; however, *DeBusk* does not explicitly teach obtaining information about the selected apparel product. *MSEC* discloses the method further comprising selecting one of the apparel products to obtain information on the selected apparel product (*MSEC* pages 1-3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of *DeBusk* with the information about apparel product of *MSEC* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

30. **As to claim 4**, *DeBusk* discloses the system substantially as claimed in claim 1; however, *DeBusk* does not explicitly teach guidelines associated with an apparel product. *MSEC* discloses the method further comprising:

executing program code in the data processing system in order to determine guidelines that are associated with the apparel products; and selecting one of the guidelines (*MSEC* page 1 wherein "Disposable and Patient Gowns" is a guideline); and

executing program code in the data processing system in order to determine which of the apparel products are associated with the selected guideline (*MSEC* page 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of *DeBusk* with the association to guidelines of *MSEC* since the combination would improve the user's ability to navigate a large store of data efficiently.

31. **As to claim 5**, *DeBusk* discloses the system substantially as claimed in claim 1; however, *DeBusk* does not explicitly teach customized apparel products. *MSEC* discloses the method further comprising:

executing program code in the data processing system in order to determine customized items that are associated with the apparel products (*MSEC* pages 1-3);

selecting one of the customized items (*MSEC* page 3); and

executing program code in the data processing system in order to determine which of the apparel products are associated with the selected customized item (*MSEC* page 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of *DeBusk* with the information about apparel product of *MSEC* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

32. **As to claim 9**, *MSEC* discloses the system substantially as claimed in claim 6 above; however, *MSEC* does not explicitly teach that apparel products are associated with surgical procedures. *DeBusk* discloses the method further comprising:

executing program code in a data processing system in order to determine surgical procedures that are associated with the apparel products; selecting one of the surgical procedures (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65); and

executing program code in the data processing system in order to determine which of the apparel products are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of *MSEC* with the information about apparel in relation to surgical procedures of *DeBusk* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

33. **As to claim 14**, *MSEC* discloses the system substantially as disclosed in claim 11 above; however *MSEC* does not explicitly teach that apparel products are associated with surgical procedures. *DeBusk* discloses the method further comprising:

executing program code in a data processing system in order to determine surgical procedures that are associated with the apparel products; selecting one of the surgical procedures (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65); and

executing program code in the data processing system in order to determine which of the apparel products are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of *MSEC* with the information about apparel in relation to surgical

procedures of *DeBusk* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

34. **As to claim 16**, *DeBusk* discloses a method of selecting apparel products for surgical procedures, the method comprising:

entering a surgical procedure into a data processing system (*DeBusk* figures 16, 8, and 9; column 15 lines 17-31);

executing program code in the data processing system in order to determine apparel products that are associated with the surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65); and

However, *DeBusk* does not explicitly disclose displaying the apparel products to a user and filtering the displayed apparel products. *MSEC* discloses:

displaying the apparel products to a user (*MSEC* pages 2-3); and

executing program code in the data processing system in order to filter the displayed apparel products according to at least one of a guideline (*MSEC* page 1 wherein a user selecting the "Disposable & Patient Gowns" guideline would be presented with items that fit that guideline and not see items fitting the "Tubing and Masks" guideline).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *DeBusk* with *MSEC* since the combination would enhance the users information regarding an apparel item so that a more informed decision can be made regarding its purchase and improve searchability as a user would not be bombarded with results of products that they are not looking for.

35. **As to claim 17**, see the discussion of claim 16, additionally, *MSEC* discloses the method further comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

36. **As to claim 18**, see the discussion of claim 16, additionally, *MSEC* discloses the method further comprising selecting one of the apparel products to obtain information on the selected apparel product (*MSEC* pages 2 and 3).

37. **Claims 21-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over *DeBusk* in view of U.S. Patent No. 6,272,472 to *Danneels et al.*

38. **As to claim 21**, *DeBusk* discloses a data processing system comprising:

program code stored wherein executing the program code includes determining surgical procedures that are associated with a type of apparel entered by a user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

accepting one of the surgical procedures as selected by the user (*DeBusk* figures 8 and 9; column 15 lines 17-31); and

determining apparel products that are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

However, *DeBusk* does not disclose a computer readable storage medium containing code. *Danneels* teaches a computer-implemented method realized as one or more programs on a computer (see column 2, lines 40-46 of *Danneels*). In addition, *Danneels* teaches that the programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see column 2, lines 46-49 of *Danneels*).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of *DeBusk*. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of distribution and installation and execution of the software on another computer (see column 7, lines 46-49 of *Danneels et al.*).

39. **As to claim 22**, see the discussion of claim 21, additionally, *DeBusk* discloses the data processing system wherein the program code includes an apparel database containing data on



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apparel and a surgical procedures database containing data on surgical procedures (*DeBusk* column 8 lines 48-67).

40. **Claims 23-24, 27, 31, 33-34, 37-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over *DeBusk* in view of *Danneels* in further view of *MSEC*.

41. **As to claim 23**, *Debusk* and *Danneels* disclose the system substantially as claimed in claim 21 above; however, the references do not explicitly teach associating apparel with guidelines. *MSEC* discloses the data processing system wherein executing the program code includes determining guidelines that are associated with the apparel products, accepting a guideline as selected by the user (*MSEC* page 1 wherein "Disposable and Patient Gowns" is a guideline); and

determining which of the apparel products are associated with the selected guideline (*MSEC* page 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of *DeBusk* and *Danneels* with the association to guidelines of *MSEC* since the combination would improve the user's ability to navigate a large store of data efficiently.

42. **As to claim 24**, *Debusk* and *Danneels* disclose the system substantially as claimed in claim 21 above; however, the references do not explicitly teach customized apparel products. *MSEC* discloses the data processing system wherein

executing the program code includes determining customized items that are associated with the apparel products (*MSEC* pages 1-3);

accepting a customized item as selected by the user (*MSEC* page 3); and

determining which of the apparel products are associated with the selected customized item (*MSEC* page 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of *DeBusk* with the information about apparel product of *MSEC* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

43. **As to claim 27**, *MSEC* and *Danneels* disclose the system substantially as claimed in claim 25 above; however, the references do not explicitly teach associating an apparel product with a surgical procedure. *DeBusk* discloses the data processing system wherein executing the program code includes

determining surgical procedures that are associated with the apparel products, accepting a surgical procedure as selected by the user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65); and

determining which of the apparel products are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of *MSEC* and *Danneels* with the information about apparel in relation to surgical procedures of *DeBusk* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

44. **As to claim 31**, *MSEC* and *Danneels* disclose the system substantially as claimed in claim 29 above; however, the references do not explicitly teach associating an apparel product with a surgical procedure. *DeBusk* discloses the data processing system wherein executing the program code includes determining surgical procedures that are associated with the apparel

products, accepting a surgical procedure as selected by the user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65); and

determining which of the apparel products are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of *MSEC* and *Danneels* with the information about apparel in relation to surgical procedures of *DeBusk* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

45. **As to claim 33**, *DeBusk* discloses a data processing system comprising:

program code; wherein executing the program code includes accepting a surgical procedure entered by a user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

determining types of apparel that are associated with the surgical procedure entered by the user, accepting one type of apparel as selected by the user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

However, *DeBusk* does not explicitly disclose determining apparel products that are associated with the selected type of apparel. *MSEC* discloses;

determining apparel products that are associated with the selected type of apparel, accepting at least one of a guideline associated with the apparel products, and determining at least one of the apparel products that is associated with the at least one of a guideline (*MSEC* pages 1 wherein selecting the guideline "Tubing and Masks" will display products fitting that guideline).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify *DeBusk* with *MSEC* since the combination would increase the amount of information available to the user and ease navigation through the interface so that a user could be better informed prior to product purchase.

Additionally, *DeBusk* and *MSEC* do not disclose a computer readable storage medium containing code. *Danneels*, teaches a computer-implemented method realized as one or more programs on a computer (see column 2, lines 40-46 of *Danneels*). In addition, *Danneels* teaches that the programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see column 2, lines 46-49 of *Danneels*).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of *DeBusk* and *MSEC*. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of distribution and installation and execution of the software on another computer (see column 7, lines 46-49 of *Danneels* et al.).

46. **As to claim 34**, see the discussion of claim 33, additionally, *DeBusk* discloses the data processing system wherein the program code includes an apparel database containing data on apparel and a surgical procedures database containing data on surgical procedures (*DeBusk* column 8 lines 48-67).

47. **As to claim 37**, *DeBusk* discloses a method of selecting apparel products for surgical procedures, the method comprising:

executing program code in a data processing system in order to determine types of surgical procedures that are associated with a type of apparel (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

However, *DeBusk* does not disclose associating guidelines and customizations with apparel. *MSEC* discloses types of customizations and guidelines associated with apparel (*MSEC* pages 1-3)

selecting a guideline (*MSEC* page 1);  
executing program code in the data processing system in order to determine apparel products that are associated with the selected guideline (*MSEC* pages 1 and 3);

selecting another of a guideline that was not previously selected (*MSEC* page 1 wherein multiple guideline paths can be followed);

executing program code in the data processing system in order to determine apparel products that are associated with the selected guideline or customized item that was not previously selected (*MSEC* page 1 and 3);

selecting a remaining guideline that was not previously selected (*MSEC* page 1); and  
executing program code in the data processing system in order to determine apparel products that are associated with the selected remaining guideline (*MSEC* page 1 and 3).

48. **As to claim 38**, see the discussion of claim 37, additionally *MSEC* discloses the method wherein the guideline may be selected in any order (*MSEC* page 1 and 3).

49. **As to claim 39**, a data processing system comprising:

program code, wherein executing the program code includes accepting a type of apparel entered by a user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

determining surgical procedures that are associated with the type of apparel entered by the user user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);  
selecting one of the surgical procedures (*DeBusk* figures 8 and 9; column 15 lines 17-31);  
determining apparel products that are associated with the selected surgical procedure,  
selecting another of the surgical procedures that was not previously selected (*DeBusk* figures 8 and 9; column 15 lines 17-31);  
determining apparel products that are associated with the selected another surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);  
selecting a remaining one of the surgical procedures that was not previously selected (*DeBusk* figures 8 and 9; column 15 lines 17-31); and  
determining apparel products that are associated with the selected remaining surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

However, *DeBusk* does not disclose determining guidelines and customized items that are associated with the type of apparel entered by the user, *MSEC* makes that teaching (*MSEC* pages 1-3).

Additionally, *DeBusk* and *MSEC* do not disclose a computer readable storage medium containing code. *Danneels* teaches a computer-implemented method realized as one or more programs on a computer (see column 2, lines 40-46 of *Danneels*). In addition, *Danneels* teaches that the programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see column 2, lines 46-49 of *Danneels*).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of *DeBusk* and *MSEC*. One of ordinary

skill in the art would have been motivated to incorporate this feature for the purpose of distribution and installation and execution of the software on another computer (see column 7, lines 46-49 of *Danneels et al.*).

50. **As to claim 40**, see the discussion of claim 39, additionally *MSEC* and *DeBusk* discloses the data processing system wherein the program code includes an apparel database containing data on apparel (*MSEC* pages 1-3), a surgical procedures database containing data on surgical procedures (*DeBusk* column 8 lines 48-67), a guidelines database containing data on guidelines and a personal database containing data on customized items (*MSEC* pages 1-3).



51. **Claims 25-26, 28-30, 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over *MSEC* in view of *Danneels*.

52. **As to claim 25**, *MSEC* discloses a data processing system comprising:

program code, wherein executing the program code includes determining guidelines that are associated with a type of apparel entered by a user, accepting one of the guidelines as selected by the user (*MSEC* page 1 wherein "Disposable and Patient Gowns" is a guideline); and determining apparel products that are associated with the selected guideline (*MSEC* page 3).

However, *MSEC* does not disclose a computer readable storage medium containing code. *Danneels*, teaches a computer-implemented method realized as one or more programs on a computer (see column 2, lines 40-46 of *Danneels*). In addition, *Danneels* teaches that the programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see column 2, lines 46-49 of *Danneels*).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of *MSEC*. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of distribution and installation and execution of the software on another computer (see column 7, lines 46-49 of *Danneels et al.*).

53. **As to claim 26**, see the discussion of claim 25, additionally, *MSEC* discloses the data processing system wherein the program code includes an apparel database containing data on apparel and a guidelines database containing data on guidelines (*MSEC* pages 1-3).

54. **As to claim 28**, see the discussion of claim 25, additionally, *MSEC* discloses the data processing system wherein executing the program code includes

determining customized items that are associated with the apparel products (*MSEC* pages 1-3);

accepting a customized item as selected by the user (*MSEC* page 3); and

determining which of the apparel products are associated with the selected customized item (*MSEC* page 2).

55. **As to claim 29**, *MSEC* discloses a data processing system comprising:

program code, wherein executing the program code includes determining customized items that are associated with a type of apparel entered by a user (*MSEC* pages 1-3);

accepting one of the customized items as selected by the user (*MSEC* page 3); and

determining apparel products that are associated with the selected customized item (*MSEC* page 2).

However, *MSEC* does not disclose a computer readable storage medium containing code. *Danneels*, teaches a computer-implemented method realized as one or more programs on a computer (see column 2, lines 40-46 of *Danneels*). In addition, *Danneels* teaches that the programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see column 2, lines 46-49 of *Danneels*).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of *MSEC*. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of distribution and

installation and execution of the software on another computer (see column 7, lines 46-49 of *Danneels et al.*).

56. **As to claim 30**, see the discussion of claim 29, additionally, *MSEC* teaches the data processing system wherein the program code includes an apparel database containing data on apparel and a personal database containing data on customized items (*MSEC* pages 1-3 wherein customized data is a choice of sizes and colors).

57. **As to claim 32**, see the discussion of claim 29, additionally, *MSEC* discloses the data processing system wherein executing the program code includes determining guidelines that are associated with the apparel products, accepting a guideline as selected by the user, and determining which of the apparel products are associated with the selected guideline (*MSEC* pages 1-3).

***Conclusion***

60. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliza Squires whose telephone number is (571)270-7052. The examiner can normally be reached on Monday through Friday 8 am - 4 pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. S./  
Examiner, Art Unit 3626  
5/14/2009

/C. Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626